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7

8 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

9 In the Matter of

10 **JEFFREY MCKINNEY,**

11 Holder of License No. T008347
12 As a Pharmacy Technician
13 In the State of Arizona

Board Case No. 10-0062-PHR

**COMPLAINT AND NOTICE OF
HEARING**

14 **I. NOTICE OF PUBLIC HEARING.**

15 YOU ARE HEREBY NOTIFIED, the Arizona State Board of Pharmacy ("Board")
16 will conduct an administrative hearing at the following place and time, to determine
17 whether grounds exist to revoke or take other action regarding Pharmacy Technician
18 License No. T008347 held by Jeffrey McKinney ("Respondent"):
19

20 **Arizona State Board of Pharmacy**
1700 W. Washington Street, 3rd Floor Board Room
21 **Phoenix, Arizona 85007**
On September 16, 2010, at 9:00 a.m.

22 and continuing on successive days until concluding, concerning the matters set forth in
23 this Complaint and Notice of Hearing, at which time and place, evidence, testimony and
24 argument in support of the charges set forth in the Complaint will be presented. If you
25 desire to make a defense to the charges at the hearing, you may appear at the hearing in
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1 person and may be represented by legal counsel and may at that time cross-examine the
2 witnesses against you and present testimony of witnesses, evidence and argument in your
3 own behalf.

4 **Whether or not you intend to appear at the hearing, pursuant to A.R.S. § 32-**
5 **1927.01(O), YOU ARE REQUIRED to prepare and file a written Answer to the**
6 **allegations alleged in the above Complaint with the Board within 30 days after**
7 **service of this Complaint and Notice of Hearing.** Your Answer should contain specific
8 admissions or denials of the allegations of the Complaint, and may contain concise
9 factual allegations which you contend constitute a ground or grounds for defense. Your
10 Answer must be in writing, verified under oath, and filed with the Board within thirty
11 (30) days after service of the Complaint. *Id.* **THE BOARD SHALL CONSIDER**
12 **YOUR FAILURE TO RESPOND WITHIN THIS TIME AS YOUR ADMISSION**
13 **BY DEFAULT TO THE ALLEGATIONS STATED IN THE COMPLAINT.** *Id.*
14 The Board may then take any action allowed by A.R.S. § 32-1927.01 without conducting
15 a hearing. If you Answer and fail to appear for the hearing, the Board may proceed in
16 your absence. If you desire to waive a hearing and not contest the facts herein alleged,
17 you may file an Answer consisting of a declaration that the material allegations of the
18 Complaint are admitted.

19 After the hearing, if the Board determines that you have committed unprofessional
20 conduct or that you are professionally incompetent or physically or mentally
21 incapacitated to such a degree as to render you unfit to safely perform your employment
22 duties, the Board may revoke or suspend your license, place you on probation, issue you
23 a decree of censure or letter of reprimand, or impose upon you a civil penalty of not more
24 than \$1,000 for each violation. A.R.S. § 32-1927.01(A), (B). The Board may also charge
25 you for the costs of the administrative hearing. A.R.S. § 32-1927.01(C).

1 In accordance with Title II of the Americans with Disabilities Act (ADA), the
2 Board does not discriminate on the basis of disability in admission to and participation in
3 hearings. Should you, or anyone you call as a witness need special accommodations,
4 please contact the Board office at (602) 771-2727 at least three working days before the
5 hearing.

6 Pursuant to A.R.S. § 32-3206, you have the right to request a copy of the
7 following information from the Board:

- 8 1. Any review conducted by an expert or consultant providing an evaluation
9 of or opinion on the allegations.
- 10 2. Any records on the patient obtained by the board from other health care
11 providers.
- 12 3. The results of any evaluations or tests of the health professional conducted
at the board's direction.
4. Any other factual information that the board will use in making its
determination.

13 Please be advised that if you obtain the above-referenced information from the board, you
14 may not release it to any other person or entity or use it in any proceeding or action
15 except the administrative proceeding or appeals related to the administrative proceeding.
16 Violation of this restriction constitutes an act of unprofessional conduct per A.R.S. § 32-
17 3206(B). Also, please be advised that pursuant to A.R.S. § 32-3206(C), you or your
18 attorney may be charged for the cost of providing the information received up to the fee
19 for making a copy of each page as prescribed by A.R.S. § 12-284(A).

20 **PARTIES AND JURISDICTION**

21 1. The Board is the duly constituted authority for licensing and regulating the
22 practice of pharmacy in the State of Arizona.

23 2. Respondent is the holder of license number T008347, which allows him to
24 practice as a pharmacy technician in the State of Arizona.

25 3. Under A.R.S. § 32-1901, *et seq.*, the Board possess jurisdiction over the
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1 subject matter and over Respondent as a licensee of the Board.

2 **FACTUAL ALLEGATIONS**

3 1. On April 16, 2009, Respondent signed a Consent Agreement Reinstating
4 Pharmacy Technician License with Probation in Board Case No. 09-0049-PHR (the
5 “2009 Consent Agreement”). The 2009 Consent Agreement became effective on May 7,
6 2009.

7 2. The 2009 Consent Agreement placed Respondent’s reinstated license on
8 probation and required, among other things, that Respondent undergo random urinalysis
9 testing not less than two times per month when not working in a pharmacy and not less
10 than four times per month when working in a pharmacy. 2009 Consent Agreement at 5,
11 ¶2. Respondent was required to test through Treatment Assessment Screening Center
12 (“TASC”). *Id.* The 2009 Consent Agreement further stated that Respondent must
13 authorize and require TASC to submit test results directly to the Board. *Id.*

14 3. Respondent has failed to submit to urinalysis testing as required by the
15 2009 Consent Agreement and is in violation of the 2009 Consent Agreement. The Board
16 has not received test results from TASC since October 30, 2009.

17 **ALLEGED VIOLATIONS**


18 1. The Board possesses jurisdiction over the subject matter and over
19 Respondent pursuant to A.R.S. § 32-1901 *et seq.*

20 2. Pursuant to A.R.S. § 32-1927.01(A)(1), the Board may discipline a
21 pharmacy technician who has engaged in unprofessional conduct.

22 3. The conduct and circumstances described above constitutes unprofessional
23 conduct pursuant to A.R.S. § 32-1901.01(C)(16) (Violating a formal order, terms of
24 probation, a consent agreement or a stipulation issued or entered into by the Board or its
25 executive director).

1 DATED this 27th day of MAY, 2010.

3 ARIZONA STATE BOARD OF PHARMACY

5 By: 
6 HAL WAND, R.Ph.
7 Executive Director

8 ORIGINAL OF THE FORGOING FILED
9 this 27 day of MAY, 2010, with:

10 Arizona State Board of Pharmacy
11 1700 West Washington Street, Suite 250
12 Phoenix, Arizona 85007

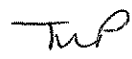
13 COPY OF THE FOREGOING MAILED
14 BY CERTIFIED & REGULAR FIRST-CLASS MAIL
15 this 27 day of MAY, 2010, to:

16 Jeffrey McKinney
17 14014 N. 54th Ave.
18 Glendale, AZ 85306
19 Respondent

20 COPY OF THE FOREGOING MAILED
21 this 27 day of MAY, 2010, to:

22 Christopher Munns
23 Assistant Attorney General
24 1275 W. Washington Street, CIV/SGO
25 Phoenix, Arizona 85007
26 Attorney for the Board

Elizabeth A. Campbell
Assistant Attorney General
1275 W. Washington Street, CIV/LES
Phoenix, Arizona 85007
Attorney for the State


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